

Third, although the Report concludes that Secretary Babbitt's testimony satisfies the technical requirement of materiality as an element of perjury (*id.* at 462), it recognizes that a fact finder might well conclude otherwise, particularly in view of the Report's conclusion that the Hudson decision -- the propriety of which was the reason for Secretary Babbitt's testimony in the first place -- was not corrupt (*id.* at 464).^{1/}

Finally, as the Report points out, Eckstein himself attests to the good character and reputation for truthfulness of Bruce Babbitt. (*Id.* at 424.)

3. The August 30, 1996, Letter from Secretary Babbitt to Senator John McCain

The Independent Counsel elected to address an issue neither specifically referred to her by the Attorney General nor suggested by the Attorney General as a possible avenue of inquiry, viz, whether Secretary Babbitt's denials to the Thompson Committee that he sought to mislead Senator John McCain in his letter to McCain of August 30, 1996, were truthful. The Report concludes that there was "insufficient evidence to prove that Babbitt possessed the requisite intent to provide false testimony with respect to the McCain letter." (Report at 482.) That is certainly the correct conclusion. But because the Report expresses skepticism about Secretary Babbitt's candor on the subject of the McCain letter, and because, in our view, that skepticism is based on a labored view of the evidence that fails to place some of Secretary Babbitt's testimony in context, we write to provide a more complete record.

^{1/} As the Report makes clear, Paul Eckstein does not allege that Secretary Babbitt attributed to Ickes any views on the merits of the Hudson decision. (Report at 454.) Similarly, Eckstein explicitly notes that some comments he attributed to Secretary Babbitt about substantial Indian contributions to the Democratic National Committee (a subject Secretary Babbitt does not recall discussing with Eckstein) were of a general character and were not linked to the Hudson decision. (*Id.*)